

REMARKS

This is in full and timely response to the non-final Office Action mailed on July 27, 2004. Reexamination in light of the amendments and the following remarks is respectfully requested.

Claims 51-73 are currently pending in this application, with claims 51, 56 and 57 being independent. No new matter has been added.

Rejection under 35 U.S.C. §102

Claims 51-58 were rejected under 35 U.S.C. §102 as allegedly being anticipated by Japanese Publication No. 11-096948 to Kato Hiroshi et al. (Kato).

This rejection is traversed at least for the following reasons.

Anticipation generally

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Product-by-process generally

As an initial matter, the Office Action attempts to recast selected structural features found within the claims as process steps. However, such a reconstruction is merely an attempt to redefine the invention in a manner different than from what is set forth within the claims. Such reconstruction is without authority under Title 35 U.S.C., Title 37 C.F.R., the M.P.E.P. and relevant case law; such reconstruction is therefore deemed improper and inappropriate.

Moreover, the Office Action concludes that the transfer foil is directed to an intermediate product and is therefore subject to a product-by-process limitation and is not afforded patentable weight.

In response to this conclusion, a "product-by-process" claim is one in which the product is defined at least in part in terms of the method or process by which it is made. *Atlantic Thermoplastics Co. Inc. v. Faytex Corp.* 23 USPQ2d 1481, 1488 (Fed. Cir. 1992). However, please noted that the features found within the claims are structural features, and not process steps.

Furthermore all claim features must be considered" (emphasis added). *Ex parte Petersen*, 228 USPQ 217, 218 (Bd. Pat. App. & Int. 1985). Exclusion of any claimed feature from consideration is also deemed improper and inappropriate. *In re Lowry*, 32 USPQ2d 1031 (Fed. Cir. 1994)(Board erred by denying patentable weight to data structure limitations).

Claim 51

Claim 51 and the claims dependent thereon include:

51. (currently amended) A flat cathode-ray tube comprising:

51. (currently amended) A flat cathode-ray tube comprising:

a transfer foil having a fluorescent layer and a reflective layer,

said reflective layer being between said fluorescent layer and a screen panel,

wherein a peripheral edge of said fluorescent layer extends beyond a peripheral edge of said reflective layer.

Kato arguably teaches a reflection type flat tube having a fluorescent layer 4 and a reflective layer 3 (figure 1). Yet, the Office Action fails to clearly show the total surface area of the reflective layer 3 being smaller than the total surface area of the fluorescent layer 4. In

addition, the Office Action fails to show within Kato a peripheral edge of the fluorescent layer 4 extending beyond a peripheral edge of the reflective layer 3.

Claim 56

Claim 56, which has been placed into independent form, includes the features of:

a transfer foil having a fluorescent layer and a reflective layer, said reflective layer being between said fluorescent layer and a screen panel, the total surface area of said reflective layer being smaller than the total surface area of said fluorescent layer,

wherein said transfer foil includes a grid layer between said reflective layer and said screen panel,

wherein said transfer foil further includes an adhesive layer between said grid layer and said screen panel, and

wherein said grid layer, said reflective layer and said fluorescent layer is adhered to said screen panel through said the adhesive layer.

Kato arguably teaches a reflection type flat tube having a fluorescent layer 4 and a reflective layer 3 (figure 1). Yet, the Office Action fails to clearly show the total surface area of the reflective layer 3 being smaller than the total surface area of the fluorescent layer 4.

In addition, within the claimed invention, the transfer foil further includes an adhesive layer between the grid layer and the screen panel.

Figure 1 of Kato arguably teaches a screen panel 1 and a conductive layer 2, but fails to clearly depict an adhesive layer between the conductive layer 2 and the screen panel 1.

Claim 57

Claim 57, which has been placed into independent form, includes the features of:

a transfer foil having a fluorescent layer and a reflective layer, said reflective layer being between said fluorescent layer and a screen panel, the total surface area of said reflective layer being smaller than the total surface area of said fluorescent layer; and

a transfer film, said transfer foil being between said screen panel and said transfer film, said transfer film being releasably removable from said transfer foil.

Kato arguably teaches a reflection type flat tube having a fluorescent layer 4 and a reflective layer 3 (figure 1). Yet, the Office Action fails to clearly show the total surface area of the reflective layer 3 being smaller than the total surface area of the fluorescent layer 4.

In addition, within the claimed invention, the transfer foil is between the screen panel and the transfer film.

Figure 1 of Kato arguably teaches a screen panel 1 and a conductive layer 2, but fails to clearly depict a transfer foil that is between the screen panel and the transfer film.

The Office Action fails to show where each and every element as set forth in the claims are found, either expressly or inherently described, within Kato. Withdrawal of this rejection and allowance of the claims is respectfully requested.

New non-final Office Action

If the allowance of the claim is not forthcoming at the very least and a new grounds of rejection made, then a new non-final Office Action is respectfully requested.

Conclusion

For the foregoing reasons, all the claims now pending in the present application are allowable, and the present application is in condition for allowance. Accordingly, favorable

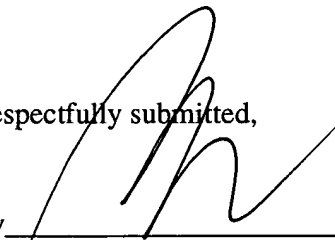
reexamination and reconsideration of the application in light of the amendments and remarks is courteously solicited.

If the Examiner has any comments or suggestions that could place this application in even better form, the Examiner is requested to telephone Brian K. Dutton, Reg. No. 47,255, at 202-955-8753 or the undersigned attorney at the below-listed number.

If any fee is required or any overpayment made, the Commissioner is hereby authorized to charge the fee or credit the overpayment to Deposit Account # 18-0013.

Dated: August 12, 2004

Respectfully submitted,



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